

W.D.N.Y.
13-mc-27
Arcara, J.

MANDATE

United States Court of Appeals
FOR THE
SECOND CIRCUIT

At a stated term of the United States Court of Appeals for the Second Circuit, held at the Thurgood Marshall United States Courthouse, 40 Foley Square, in the City of New York, on the 14th day of April, two thousand fifteen.

Present:

Jose A. Cabranes,
Gerard E. Lynch,
Christopher F. Droney,
Circuit Judges.

National Labor Relations Board,

Petitioner,

v.

Donato Marangi, Inc.,

15-594-ag

Respondent.

The National Labor Relations Board has applied for enforcement of its order upon stipulation of the parties. The application is hereby GRANTED.

FOR THE COURT:
Catherine O'Hagan Wolfe, Clerk

 

A True Copy

Catherine O'Hagan Wolfe, Clerk

United States Court of Appeals, Second Circuit

 

MANDATE ISSUED ON 04/14/2015

UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT

| | | |
|--|---|-----------------|
| NATIONAL LABOR RELATIONS BOARD | : | |
| | : | No. |
| Petitioner | : | |
| v. | : | Board Case No.: |
| | : | 02-CA-098752 |
| DONATO MARANGI, INC., COTTAGE CARTING, | : | |
| INC. AND ADVANCED WASTE SYSTEMS, INC. | : | |
| | : | |
| Respondents | : | |

JUDGMENT ENFORCING AN ORDER OF THE
NATIONAL LABOR RELATIONS BOARD

THIS CAUSE was submitted upon the application of the National Labor Relations Board for entry of a consent judgment against Respondents, Donato Marangi, Inc., Cottage Carting, Inc., and Advanced Waste Systems, Inc., their officers, agents, successors, and assigns, enforcing its order dated February 18, 2015, in Case No. 02-CA-098752, and upon the record in that proceeding, certified and filed in this Court enforcing the order.

ON CONSIDERATION WHEREOF, it is ordered and adjudged by the United States Court of Appeals for the Second Circuit that the order of the National Labor Relations Board be, and the same is hereby enforced; and that the Respondents, Donato Marangi, Inc., Cottage Carting, Inc., and Advanced Waste Systems, Inc., their officers, agents, successors, shall abide by and perform the directions of the Board set forth in its order. (See Attached Order and Appendix)

Mandate shall issue forthwith

FOR THE COURT:

DATED:

NATIONAL LABOR RELATIONS BOARD

v.

DONATO MARANGI, INC., COTTAGE CARTING, INC.,
AND ADVANCED WASTE SYSTEMS, INC.

ORDER

Donato Marangi, Inc., Cottage Carting, Inc., and Advanced Waste Systems, Inc., their officers, agents, successors and assigns, shall jointly and severally

1. Cease and desist from

- (a) Unilaterally implementing policies affecting the terms and conditions of employment of employees in the following appropriate unit (the bargaining unit) without providing the Union prior notice and an opportunity to bargain, including but not limited to implementing a policy that any employees who are deemed to be at fault for vehicular accidents will be terminated unless they agree to pay for the damages:

All regular full-time and part-time employees employed by Respondents in and out of the facilities located at 175 Route 303, Valley Cottage, New York and/or 366 Highland Ave. Ext., Middletown, New York, or such employees performing work in Orange and Rockland Counties, New York, or in New Jersey.

- (b) Making midterm modifications to the collective-bargaining agreement between the Respondents and the Union without the Union's consent, including but not limited to deducting monies from the paychecks of employees in the bargaining unit for health benefit contributions for a time when employees were not required to make any contributions toward their health benefits.
- (c) Bypassing the Union and dealing directly with employees in the bargaining unit regarding their terms and conditions of employment, including but not limited to the manner in which the Respondents would deduct monies from their paychecks for health benefit contributions.
- (d) In any manner interfering with, restraining, or coercing employees in the exercise of the rights guaranteed to employees by Section 7 of the Act.

2. Take the following affirmative actions necessary to effectuate the policies of the Act.
 - (a) To the extent that they have not already done so, within 14 days of the Board's Order, rescind the policy that employees in the bargaining unit who are deemed to be at fault for vehicular accidents will be terminated unless they agree to pay for the damages.
 - (b) To the extent that they have not already done so, within 14 days of the Board's Order, make whole bargaining unit employees for any monies withheld from their paychecks to pay for damage they may have caused to the Respondents' vehicles.
 - (c) To the extent that they have not already done so, within 14 days of the Board's Order, make whole unit employees for any monies withheld from the paychecks of employees in the bargaining unit to pay for health benefit contributions for a time when employees were not required to make any contributions toward their health benefits.
 - (d) Within 14 days of service by the Region, post at its facility copies of the attached Notice to Employees (notice). Copies of the notice, on forms provided by Region 2, after being signed by the Respondents' authorized representatives, shall be posted by the Respondents and maintained for 60 consecutive days in conspicuous places. The Respondents will take reasonable steps to ensure that the notices are not altered, defaced, or covered by any other material. In the event that, during the pendency of these proceedings, the Respondents have gone out of business or closed its facility, the Respondents shall duplicate and mail, at their own expense, a copy of the notice to all employees employed by the Respondents at any time during the period February 1, 2013 to the present.
 - (e) Within 21 days after service by the Region of the notice, file with the Regional Director for Region 2 a sworn certification of a responsible official on a form provided by the Region attesting to the steps that the Respondents have taken to comply.

APPENDIX

NOTICE TO EMPLOYEES

**POSTED BY ORDER OF THE
NATIONAL LABOR RELATIONS BOARD
An Agency of the United States Government**

**PURSUANT TO A STIPULATION PROVIDING FOR A BOARD ORDER
AND A CONSENT JUDGMENT OF ANY APPROPRIATE
UNITED STATES COURT OF APPEALS**

FEDERAL LAW GIVES YOU THE RIGHT TO:

Form, join, or assist a union;
Choose a representative to bargain with us on your behalf;
Act together with other employees for your benefit and protection;
Choose not to engage in any of these protected activities.

WE WILL NOT do anything to prevent you from exercising the above rights.

WE WILL NOT unilaterally and without notice to the Union or affording the Union an opportunity to bargain, change the terms and conditions of employment of employees in the following appropriate bargaining unit:

All regular full-time and part-time employees employed by
Respondents in and out of the facilities located at 175 Route 303,
Valley Cottage, New York and/or 366 Highland Ave. Ext.,
Middletown, New York, or such employees performing work in
Orange and Rockland Counties, New York, or in New Jersey.

WE WILL NOT modify the terms of the collective-bargaining agreement between us and the Union without obtaining the consent of the Union.

WE WILL NOT bypass your Union and deal directly with you concerning changes in your terms and conditions of employment.

WE WILL NOT in any manner, interfere with, restrain, or coerce our employees in the exercise of the rights listed above.

WE WILL, to the extent that we have not already done so, rescind the policy that unit employees who are deemed to be at fault for vehicular accidents will be terminated unless they agree to pay for the damages.

WE WILL, to the extent that we have not already done so, reimburse employees for any monies withheld from their pay checks for damages caused to our vehicles.

WE WILL, to the extent that we have not already done so, reimburse employees for any monies withheld from their pay checks for health benefit contributions for a time when employees were not required to make any contributions toward their health benefits.

DONATO MARANGI, INC.
(Employer)

COTTAGE CARTING, INC.
(Employer)

ADVANCED WASTE SYSTEMS, INC.
(Employer)

The Board's decision can be found at www.nlr.gov/case/02-CA-098752 or by using the QR code below. Alternatively, you can obtain a copy of the decision from the Executive Secretary, National Labor Relations Board, 1099 14th Street, N.W., Washington, D.C. 20570, or by calling (202) 273-1940.

